

9/15



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/596,921	06/19/2000	Tom Van Horn	MCTA-005/00US	4483
758 7590 01/05/2007 FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			EXAMINER MISIASZEK, MICHAEL	
			ART UNIT	PAPER NUMBER
			3625	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/596,921

Applicant(s)

VAN HORN ET AL.

Examiner

Michael Misiaszek

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 26-30, 50-58, 66-70 and 77-121 is/are pending in the application.
- 4a) Of the above claim(s) 1-13, 26-30, 50-58, 66-70 and 97-115 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 77-96 and 116-121 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The Examiner notes that the Office Action dated 9/8/2006 utilized a commonly owned reference to the present application in a statement of rejection. Accordingly, the finality of the previous action is vacated. Such has been indicated in the Interview Summary previously mailed in the present application.

### ***Response to Amendment***

Applicant's amendments filed 6/30/2006 have been received and reviewed. That status of the claims is as follows:

Claims 1-13, 26-30, 50-58, 66-70, and 77-121 are pending in the present application. Claims 1-13, 26-30, 50-58, 66-70, and 97-115 have been withdrawn from consideration by the applicant.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**1. Claims 77, 78, 81, 86, 87, 88, 91, 96, 117, 118, and 121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daleen et al. (US 6493722 B1, hereinafter Daleen) in view of Walker et al. (US 20050177402 A1, hereinafter Walker).**

**Regarding Claims 77, 87, 117**

Daleen discloses a negotiating system and method for facilitating communications between buyers participating together as a buying group during an on-line group-buying sale of a product offered by a seller comprising:

- a negotiating room associated with a product described in the product database, the product offered by the seller during the on-line group-buying sale, the negotiating room further adapted to receive and display messages between the buyers in the buying group, and to enable the buyers to aggregate their demand for the product (at least abstract and column 4, lines 1-4: community uses forums and chat rooms to come together and negotiate a group-buying offer)
- a display interface adapted to display to the buyers in the buying group product information about the product concurrently with messages in the negotiating room between the buyers in the buying group and further adapted to receive online group-buying offers from the buyers to purchase the product (at least

Art Unit: 3625

column 5, lines 29-58 display on computer used by each community member in forums, chat rooms during negotiation process)

- a commerce server adapted to receive the on-line group-buying offers to purchase the product from the display interface, the offers based on the aggregated demand (at least column 8, lines 1-43: groups of users submit offer)

Daleen does not disclose:

- a product database containing product information for a plurality of products

Walker teaches that it is known to include a database containing product information for a plurality of products (at least [0048]: flight schedule database, seat allocation database, and price database) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the negotiating room system and method, as taught by Daleen, with the database, as taught by Walker, since such a modification would have provided a means for airlines to fill excess capacity using group purchasing (at least paragraphs [0010] and [0007] of Walker).

Art Unit: 3625

Regarding Claims 78, 88, 118

Daleen discloses:

- receiving from the seller changes in the price of the product during the online group-buying sale (at least column 3, lines 1-8: prices are reduced by group-buying)

Regarding Claims 81, 86, 91, 96, 121

Daleen discloses the claimed invention except for:

- receiving an instruction from the seller modifying the product during the on-line group-buying sale by adding at least one of a good and a service to the product
- displaying a table containing a plurality of prices of the product associated with a plurality of quantities of the product

Walker teaches that it is known to include modifying the product during a sale by adding a good or service to the product (at least paragraph [0051]: flight added) and displaying a table containing a plurality of prices of a product associated with a plurality of quantities associated with a product (at least figure 5: prices and quantities associated with airline tickets) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the negotiating room system and method, as taught by Daleen, with the adding a good or service to a product and displaying a table of prices and quantities of a product, as taught by Walker, since such a modification would have provided a means for airlines to fill excess capacity using group purchasing (at least paragraphs [0010] and [0007] of Walker).

Art Unit: 3625

**2. Claims 79, 82, 84, 85, 89, 92, 94, 95, and 119 are rejected under 35**

**U.S.C. 103(a) as being unpatentable over Daleen in view of Walker as applied to claims 77, 78, 81, 86, 87, 88, 91, 96, 117, 118, and 121 above, and further in view of Lupien et al. (US 6098051, hereinafter Lupien).**

Regarding Claims 79, 80, 89, 90, 119, 120

The combination of Daleen and Walker discloses the claimed invention except for:

- receiving a first price at a first quantity and a second price at a second quantity wherein the first price is higher than the second price and the first quantity lower than the second quantity

Lupien teaches that it is known to include receiving a first price at a first quantity and a second price at a second quantity wherein the first price is higher than the second price and the first quantity lower than the second quantity (at least figure 2: higher price at lower quantity) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the negotiating room system and method, as taught by Daleen and Walker, with the receiving of prices and quantities, as taught by Lupien, since such a modification would have provided increased customer satisfaction by obtaining pricing preferences for each customer (at least column 7, lines 18-46 of Lupien).

Regarding Clams 82-84, 92-94

The combination of Daleen and Walker discloses the claimed invention except for:

- displaying a demand curve for the product representing a plurality of prices of the product associated with a plurality of quantities of the product
- displaying an offer curve for the product including a price axis and a quantity axis, wherein the curve is determined by the seller before the on-line buying sale

Lupien teaches that it is known to include displaying a demand curve for a product representing product prices and quantities (at least figure 2) and display an offer curve with a price and quantity axis which is determined before the on-line buying sale (at least figure 2: density profile determined before sale) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the negotiating room system and method, as taught by Daleen and Walker, with the display of the various curves, as taught by Lupien, since such a modification would have provided increased customer satisfaction by obtaining and displaying pricing preferences for each customer (at least column 7, lines 18-46 of Lupien).



Art Unit: 3625

Regarding Claims 85, 95

The combination of Daleen and Walker discloses:

- the curve for the product represents either the quantity of the product demanded or the number of offers received, over a fixed interval of time (least figure 5 of Walker)

**3. Claims 80, 90, and 120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daleen in view of Walker as applied to claims 77, 78, 81, 86, 87, 88, 91, 96, 117, 118, and 121 above, and further in view of Barzilai et al. (US 6012045, hereinafter Barzilai)**

The combination of Daleen and Walker discloses the claimed invention except for:

- receiving an acceptance of the on-line group-buying offers at a price based on aggregated demand and transmitting the acceptance at the price to the display interface to be displayed to the buyers in the buying group accessing the display interface

Barzilai teaches that it is known to include receiving and transmitting an acceptance to a group-buying offer to be displayed (at least claim 8: display accepted bids to all customers ) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the negotiating room system and method, as taught by Daleen and Walker, with the receiving and transmitting of an offer acceptance, as taught by Barzilai, since such a modification

Art Unit: 3625

would have provided a more accessible commerce system providing purchasing information to all customers (at least column 1, lines 59-67 and column 2, lines 1-17 of Barzilai).

**4. Claims 83, 93, and 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daleen in view of Walker as applied to claims 77, 78, 81, 86, 87, 88, 91, 96, 117, 118, and 121 above, and further in view of Parunak et al. (US 20020013631 A1, hereinafter Parunak)**

The combination of Daleen and Walker discloses the claimed invention except for:

- displaying a curve for the product generated based on the on-line group-buying offers made for the product, whereby the offers are based on aggregated demand

Parunak teaches that it is known to include display a curve based on aggregated demand offers of a group-buying sale (at least paragraph [0187]: curve displayed based on aggregate demand offers) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the negotiating room system and method, as taught by Daleen and Walker, with the display of the various curves, as taught by Parunak, since such a modification would have provided for simplifying aggregate offers by viewing the offers as if they were offers from a single buyer (at least paragraphs [0185]-[0186] of Parunak).

Art Unit: 3625

Regarding Claim 116

The combination of Daleen and Walker discloses:

- displaying real-time messages sent by the buyers in the buying group related to the product (at least abstract and column 4, lines 1-4: community uses forums and chat rooms to come together and negotiate a group-buying offer)
- receiving a message related to the product to be displayed through an interface (at least abstract and column 4, lines 1-4: community uses forums and chat rooms to come together and negotiate a group-buying offer)

The combination of Daleen and Walker does not disclose:

- displaying a demand curve generated based on the offers for the product, whereby the offers are based on the aggregated demand

Parunak teaches that it is known to include display a curve based on aggregated demand offers of a group-buying sale (at least paragraph [0187]: curve displayed based on aggregate demand offers) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the negotiating room system and method, as taught by Daleen and Walker, with the display of the various curves, as taught by Parunak, since such a modification would have provided for simplifying aggregate offers by viewing the offers as if they were offers from a single buyer (at least paragraphs [0185]-[0186] of Parunak).

***Response to Arguments***

Applicant's arguments with respect to claims 77-96 and 116-121 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Misiasek whose telephone number is (571) 272-6961. The examiner can normally be reached on 8:00 AM - 4:30 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael A. Misiaszek  
Patent Examiner  
12/2/2006

  
YOGESH C. GARG  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600